

ARKANSAS COURT OF APPEALS

DIVISION IV
No. CA08-1354

PAUL HENSLEY

APPELLANT

V.

BRIDGESTONE/FIRESTONE, INC.

APPELLEE

Opinion Delivered MAY 6, 2009

APPEAL FROM THE ARKANSAS
WORKERS' COMPENSATION
COMMISSION,
[NO. F003545]

REVERSED AND REMANDED

RITA W. GRUBER, Judge

Paul Hensley appeals the decision of the Arkansas Workers' Compensation Commission denying his request for additional benefits for treatment that he argued was related to a compensable back injury he incurred in February 2000. The Commission, affirming and adopting the decision of the administrative law judge, found that the treatment was not reasonable and necessary in connection with his compensable injury. Mr. Hensley contends on appeal that the Commission's decision is not supported by substantial evidence and should be reversed. Specifically, he argues that he has consistently received treatment for the injury, that the nature of his back pain has not changed, and that the additional treatment was reasonable and necessary. Because the Commission has failed to make sufficient findings of fact to enable us to conduct an informed review, we remand for additional findings.

Arkansas Code Annotated section 11-9-508(a) requires an employer to pay for medical

treatment that is “reasonably necessary in connection with the injury received by the employee.” The claimant bears the burden of proving that he is entitled to additional medical treatment. *Dalton v. Allen Eng’g Co.*, 66 Ark. App. 201, 206, 989 S.W.2d 543, 546 (1999). Where, as here, a claim has been denied because of the claimant’s failure to meet his burden of proof, the substantial evidence standard of review requires that we affirm if the Commission’s opinion displays a substantial basis for the denial of relief. *Neal v. Sparks Reg’l Med. Center*, 104 Ark. App. 97, ___ S.W.3d ___ (2008). We view the evidence and all reasonable inferences deducible therefrom in the light most favorable to the Commission’s findings and affirm if they are supported by substantial evidence, i.e., evidence that a reasonable person might accept as adequate to support a conclusion. *Singleton v. City of Pine Bluff*, 97 Ark. App. 59, 244 S.W.3d 709 (2006).

On February 21, 2000, while working for appellee, Bridgestone/Firestone, Inc., Mr. Hensley suffered injuries to his neck and back when he attempted to place an approximately 150-pound roller on a conveyer. The claim was accepted as compensable and appellee paid Mr. Hensley benefits for treatment of his injuries. Mr. Hensley had surgery on his neck. Treatment for his back has consisted of physical therapy, steroid shots, muscle relaxants, and some pain medication. Mr. Hensley went back to work for appellee full time in December 2003.

Dr. Ronald Williams, a neurosurgeon who performed surgery on Mr. Hensley’s neck, last saw Mr. Hensley on May 24, 2005. Mr. Hensley made the appointment because he was suffering from muscle spasms; Dr. Williams prescribed Flexeril. Dr. Williams wrote a letter

to family doctor Kevin Beavers explaining that Mr. Hensley would like Dr. Beavers to become his family physician, which would save Mr. Hensley from “driving all the way to Little Rock to get occasional medicine such as the Flexeril.”

Dr. Beavers treated Mr. Hensley on December 16, 2005, for back pain, continuing muscle-relaxant therapy and prescribing a limited quantity of Hydrocodone for pain relief. In February 2006, Dr. Beavers ordered physical therapy for Mr. Hensley’s back pain, which Mr. Hensley continued through March 8, 2006. Dr. Beavers prescribed a back brace for Mr. Hensley to use during work hours and ordered an MRI, which was performed on Mr. Hensley’s back on April 12, 2006, which resulted in the following impression: “Normal MRI of the lumbar spine.” Dr. Beavers treated Mr. Hensley on April 25, 2006, again for back pain. Dr. Beavers noted that the MRI was reported as normal, but he stated that “in the text of the MRI report it is noted that [Mr. Hensley] has some L4-5 and L5-S1 degenerative disc problems which obviously would not make it normal.”

At the request of appellee, Dr. Darin Wilbourn performed an independent medical evaluation on Mr. Hensley on May 9, 2006, due to complaints of neck and low-back pain. In response to specific questions, Dr. Wilbourn provided the following opinions:

1. Diagnosis?
 1. Chronic cervical spine pain status post anterior cervical fusion October 9, 2003.
 2. Chronic low back pain.
2. Prognosis for recovery?

Good
3. Please obtain history of injury(ies) sustained and subsequent medical treatment received.

As stated above.
4. Please include in history any prior injuries and/or preexisting conditions.

As stated above.

5. Please establish causal relationship, if any, of claimant's current symptomatology to incident of February 17, 2000.

Mr. Hensley's current symptoms of chronic cervical spine pain and low back pain, in my opinion, are related to the incident of February 17, 2000.

6. To what degree is claimant currently disabled, if at all, relative to incident of February 17, 2000?

Mr. Hensley is currently not disabled.

7. Is further treatment needed for injuries sustained in incident of February 17, 2000? If so, what type and for what duration.

No.

8. In your medical opinion, is this claimant's current regime of medical care reasonable and necessary for injuries sustained on February 17, 2000?

Yes.

9. In your medical opinion, has claimant sustained any loss of function due to incident of February 2000?

No.

10. Please evaluate status of scarring.

Scarring evident from previous anterior cervical fusion.

11. Should we anticipate any permanency on this claim?

9% whole person impairment for his cervical spine as already documented by Dr. Ron Williams on December 19, 2003. There is no permanent impairment as related to his chronic low back pain.

12. In your opinion, has an end result been achieved?

Yes.

13. Has this claimant reached maximum medical improvement?

Yes.

Thereafter, in a letter dated February 9, 2007, appellee told Mr. Hensley that Dr. Wilbourn had placed him at "Maximum Medical Improvement" and that his workers' compensation claim had been closed as of June 28, 2006. Mr. Hensley returned to Dr. Beavers in April 2007 for back pain; Dr. Beavers prescribed Flexeril. It is this treatment by Dr. Beavers in April 2007 that is at issue in this case.

The Commission found that the treatment rendered by Dr. Beavers in April 2007 was not reasonable and necessary in connection with Mr. Hensley's compensable injury.

Specifically, the Commission relied upon Dr. Wilbourn's opinion that Mr. Hensley had reached maximum medical improvement as of his evaluation in May 2006 and the fact that Mr. Hensley did not seek additional treatment for his back until a year later in April 2007. However, it is well settled that a claimant may be entitled to ongoing medical treatment after the healing period has ended if the medical treatment is geared toward management of the claimant's injury. *Patchell v. Wal-Mart Stores, Inc.*, 86 Ark. App. 230, 236, 184 S.W.3d 31, 35 (2004).

The evidence was undisputed that Mr. Hensley has continued to suffer from back pain related to the incident of February 17, 2000. Dr. Wilbourn stated that Mr. Hensley's current symptoms of chronic cervical spine pain and low back pain were related to the incident of February 17, 2000, and that his current regime of medical care was "reasonable and necessary for injuries sustained on February 17, 2000." The Commission failed to address this evidence and whether Dr. Beavers's treatment was "geared toward management" of Mr. Hensley's injury. Accordingly, we reverse the Commission's decision and remand for additional findings.

Reversed and remanded for additional findings.

PITTMAN and ROBBINS, JJ., agree.